

Protecting Trade Secrets

WAC 296-816-200

Summary

YOUR RESPONSIBILITY:

To meet requirements that apply to your workplace when withholding or providing trade secret information

You must

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Provide trade secret information in a medical emergency WAC 296-816-20010	200-2
Provide trade secret information in nonemergency situations WAC 296-816-20015	200-3
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Protecting Trade Secrets

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Rule

WAC 296-816-20005

Indicate when trade secret information has been withheld

You must

- Indicate clearly in the MSDS or employee exposure records that trade secret information has been withheld.

WAC 296-816-20010

Provide trade secret information in a medical emergency

You must

- Immediately provide the specific chemical identity to the treating physician or nurse when **they determine:**
 - That a medical emergency exists
 - and**
 - The specific chemical identity is necessary to treat the employee involved in the medical emergency.



Note:

- You may require a written statement of need and confidentiality agreement from the treating physician or nurse receiving the trade secret information as soon as circumstances of the medical emergency permit.
- If the health care professional receiving the trade secret information decides that there's a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.



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Rule

WAC 296-816-20015

Respond to requests for trade secret information in nonemergency situations

You must

- Provide specific chemical identity information in nonemergency situations when a written request by a health professional, employee, or designated representative, includes the following:
 - Details showing that the specific chemical identity is needed for one or more of the following occupational health reasons:
 - Assessing the hazards of the chemicals employees will be exposed to.
 - Conducting or assessing sampling of the workplace atmosphere to determine employee exposure levels.
 - Conducting medical surveillance of exposed employees.
 - Providing medical treatment to exposed employees.
 - Selecting or assessing personal protective equipment for exposed employees.
 - Designing or assessing engineering controls or other protective measures.
 - Conducting studies to determine the health effects of exposure.
 - Details showing why the following alternative information **does not** meet the needs of the requestor:
 - The properties and effects of the chemical.
 - Measures for controlling employees' exposure to the chemical.
 - Methods of monitoring and analyzing employee exposure to the chemical.
 - Methods of diagnosing and treating harmful exposures to the chemical.
 - The procedures that will be used to keep the information confidential.

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Protecting Trade
Secrets



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Rule

WAC 296-816-20015 (Continued)

- A written confidentiality agreement that says:
 - The information won't be used for anything other than the stated health needs.
 - The information won't be released to anyone else, except according to the terms of the agreement or to WISHA.



Note:

- If the health care professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to WISHA, they need to inform you prior to, or at the same time as, disclosure being made to WISHA.

You must

- Meet all the following requirements if you decide not to provide the requested trade secret information:
 - Provide a written denial within 30 days that includes the following information:
 - The reasons for denying the request.
 - Evidence that the requested information is a trade secret.
 - A detailed explanation of how alternative information may satisfy the requesting party's needs without revealing any specific chemical identity.
 - Provide alternative information that allows the requesting party to identify where and when an exposure occurred, if trade secret information was deleted.
 - Make available all other information about the properties and effects of the specific chemical.

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Rule

WAC 296-816-20015 (Continued)



Note:

- If you deny a request for trade secret information, the requestor may refer the written denial, along with the original request, to WISHA for consideration. WISHA will review the denial and determine if it meets the requirements of this chapter, such as whether:
 - It is a bona fide trade secret.
 - There is a medical or occupational health need for the information.
 - Adequate means are in place to protect the confidentiality of the information.
- WISHA may issue orders or impose additional limitations or conditions on the release of the information to make sure that the occupational health needs are met without risk to you when you show WISHA that a confidentiality agreement won't not provide enough protection against harm that could be caused to your business by disclosing a specific chemical identity.

WAC 296-816-20020

Provide trade secret information when requested by WISHA

You must

- Provide trade secret information to WISHA when requested.
 - Make any trade secret claim, including supporting documentation, by the time you provide WISHA with the information.



Notes
